

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

CRYSTAL S. EPPERSON

PLAINTIFF

v.

Civil No. 1:20-cv-369-HSO-RHWR

KILOLO KIJAKAZI¹
*Acting Commissioner of Social
Security*

DEFENDANT

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATION [16] AND DISMISSING CASE**

BEFORE THE COURT is United States Magistrate Judge Robert H.

Walker's Report and Recommendation [16], which recommends that the decision of the Commissioner of Social Security be affirmed and that Plaintiff Crystal S. Epperson's claims be dismissed. R. & R. [16] at 1. No objections have been filed, and the time for doing so has passed. After due consideration of the Report and Recommendation [16], the record, and relevant legal authority, the Court finds that the Magistrate Judge's Report and Recommendation [16] should be adopted as the finding of this Court, and that Plaintiff Crystal S. Epperson's claims should be dismissed with prejudice.

I. BACKGROUND

On or about October 13, 2019, Plaintiff Crystal S. Epperson ("Plaintiff" or

¹ Kilolo Kijakazi became the Acting Commissioner of Social Security on July 9, 2021. Pursuant to Federal Rule of Civil Procedure 25(d), Kilolo Kijakazi is automatically substituted in place of Andrew Saul as Defendant in this action. 42 U.S.C. § 405(g).

“Epperson”) filed an application with the Social Security Administration for Disability Insurance Benefits under Title II of the Social Security Act, 42 U.S.C. § 423(d)(1)(A). Compl. [1] at 1. An Administrative Law Judge (“ALJ”) denied her application after making a determination that she was not disabled. *Id.* at 2. On December 8, 2020, Plaintiff filed her Complaint [1] in this Court against the Commissioner of Social Security, seeking judicial review of the Commissioner’s decision. *Id.*

Plaintiff raised two issues in her brief, both related to her mental capacity. Br. [12] at 1. First, she argued that the ALJ used an incorrect standard to evaluate the opinion of a clinical psychologist who once examined Plaintiff. *Id.* Second, she asserted that the ALJ’s residual functional capacity finding was flawed because the ALJ did not consider the opinion of one of Plaintiff’s examining physicians and improperly weighed the opinion of Plaintiff’s mental health counselor. *Id.*

On May 24, 2022, the Magistrate Judge entered a Report and Recommendation [16] recommending that the decision of the Commissioner be affirmed, because the ALJ considered the persuasiveness of each medical opinion and cited substantial evidence supporting her decision. R&R [16] at 1. Neither party has filed an objection to the Report and Recommendation, and the time for doing so has passed. L.U. Civ. R. 72(a)(3).

II. DISCUSSION

Where no party has objected to the Magistrate Judge’s report and recommendation, the Court need not conduct a de novo review of it. 28 U.S.C.

§ 636(b)(1) (“A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.”). When there are no objections, the Court applies the “clearly erroneous, abuse of discretion and contrary to law” standard of review to the report and recommendation. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989).

Having conducted this required review, the Court concludes that the Report and Recommendation [16] is neither clearly erroneous nor contrary to law. The Court will adopt the Magistrate Judge’s Report and Recommendation [16] as the opinion of this Court. The Court finds that dismissal with prejudice is appropriate.

III. CONCLUSION

IT IS, THEREFORE, ORDERED AND ADJUDGED that, the Report and Recommendation [16] of United States Magistrate Judge Robert H. Walker entered in this case on May 24, 2022, is **ADOPTED** in its entirety as the finding of this Court.

IT IS, FURTHER, ORDERED AND ADJUDGED that, this civil action is **DISMISSED WITH PREJUDICE**. A separate judgment will be entered in accordance with this Order as required by Federal Rule of Civil Procedure 58.

SO ORDERED AND ADJUDGED, this the 13th day of June, 2022.

s/ Halil Suleyman Ozerden

HALIL SULEYMAN OZERDEN
UNITED STATES DISTRICT JUDGE